

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Amendment of Part 90  
of the Commission's Rules  
to Adopt Regulations for Automatic  
Vehicle Monitoring Systems

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

PR Docket No. 93-61

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**OPPOSITION OF THE CONSUMER ELECTRONICS  
MANUFACTURERS ASSOCIATION**

The Consumer Electronics Manufacturers Association ("CEMA"), a sector of the Electronic Industries Association, hereby opposes the petition for reconsideration of the Commission's *Reconsideration Order* that was filed by Pinpoint Communications, Inc. ("Pinpoint") in the above-captioned proceeding on May 30, 1996.<sup>1</sup> In its petition, Pinpoint has asked the Commission to reconsider language in the *Reconsideration Order* which promotes the successful sharing of the 902-928 MHz band by Part 15 devices and Location and Monitoring Service ("LMS") systems. As set forth more fully below, the Commission should deny Pinpoint's petition because the language about which Pinpoint complains is critical to maintaining the carefully crafted balance of interests which the Commission achieved in this very complex proceeding.<sup>2</sup>

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<sup>1</sup> See *Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems*, Order on Reconsideration, PR Docket No. 93-61, FCC 96-115 (released Mar. 21, 1996) [herein "*Reconsideration Order*"].

<sup>2</sup> CEMA formerly was known as the Consumer Electronics Group of the Electronic Industries Association ("CEG/EIA") and previously participated in this proceeding under that name.

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**I. THE COMMISSION SHOULD DENY PINPOINT'S EFFORTS TO UNDERMINE THE COMMISSION'S TESTING REQUIREMENT**

Throughout this proceeding, the Commission has faced the difficult task of encouraging the development of LMS, while at the same time accommodating the vast population of Part 15 devices already operating in the 902-928 MHz band. An integral part of the solution adopted by the Commission is Section 90.353(d) of its rules, which conditions certain LMS licenses upon the "licensee's ability to demonstrate through actual field tests that their systems do not cause unacceptable levels of interference to 47 C.F.R. Part 15 devices."<sup>3</sup> In its initial *Report and Order*, the Commission noted that this testing of LMS operations would "contribute to 'fine-tuning' system operations."<sup>4</sup>

In its *Reconsideration Order*, the Commission explained the basis for the testing requirement:

[T]he Commission seeks to ensure not only that Part 15 operators refrain from causing harmful interference to LMS systems, but also that LMS systems are not operated *in such a manner as to degrade, obstruct or interrupt Part 15 devices to such an extent that Part 15 operations will be negatively affected*.<sup>5</sup>

It is this highlighted language about which Pinpoint now complains. Pinpoint asserts that the language effectively eliminates the secondary status of Part 15 operations, elevates Part 15

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<sup>3</sup> 47 C.F.R. § 90.353(d).

<sup>4</sup> *Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems*, Report and Order, 10 FCC Rcd 4695, 4737 (1995) [hereinafter "*Report and Order*"].

<sup>5</sup> *Reconsideration Order* at ¶ 15 (emphasis added).

devices to a level of protection which no secondary or primary service enjoys, and will give rise to disputes between Part 15 and LMS operators over their respective obligations.<sup>6</sup>

Pinpoint, however, fails to acknowledge that the language in question appears in the context of the Commission's discussion of the testing requirement. By isolating that portion of the *Reconsideration Order* which states that LMS systems should not "degrade, obstruct or interrupt" Part 15 devices so as to affect them "negatively," Pinpoint has taken the clarifying intent of this language out of context. Read fairly, the quoted language simply makes clear that LMS licensees have a meaningful obligation to test their operations so as to ensure that "their systems do not cause unacceptable levels of interference to Part 15 devices."<sup>7</sup>

Because Pinpoint quotes the complained-of language out of context, it is not clear what the company's ultimate goals are. It appears, however, that Pinpoint is seeking to minimize or, worse, render meaningless the testing requirement. Pinpoint acknowledges its obligation "to undertake testing and *attempt* to work with the Part 15 interests in this band,"<sup>8</sup> but an LMS licensee's obligations cannot be reduced to an "attempt" to work with Part 15 interests. The Commission's rules, as the *Reconsideration Order* explains, are intended to protect Part 15 devices against their *de facto* eviction from the 902-928 MHz band.

Moreover, to the extent Pinpoint attempts to undermine the testing requirement by arguing that the status of Part 15 devices has been elevated, Pinpoint's claims have already been considered. In its initial *Report and Order*, the Commission directly addressed the question

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<sup>6</sup> See Petition for Reconsideration of Pinpoint Communications, Inc., PR Docket No. 93-61, at 3-5 (May 30, 1996) [hereinafter "Pinpoint Petition"].

<sup>7</sup> 47 C.F.R. § 90.353(d).

<sup>8</sup> Pinpoint Petition at 6 (emphasis added).

whether accommodations made on behalf of Part 15 devices, including Section 90.353(d)'s testing requirement, impermissibly elevate their status. The Commission concluded that Part 15 devices retain secondary status.<sup>9</sup> Yet, the *Report and Order* also made clear that such secondary status does not entitle LMS systems to operate in such a manner as to undermine the ability of Part 15 devices to operate in the band. Rather, consistent with its oft-expressed goal, the Commission noted that accommodations would have to be made "to minimize the potential for interference and provide a more conducive environment for sharing of the band by the disparate services."<sup>10</sup>

Pinpoint cannot now, by indirection, challenge the testing requirement. The time for filing petitions for reconsideration of the testing requirement has long since passed. Petitions for reconsideration of the *Report and Order* were due on April 24, 1995.<sup>11</sup>

Nor can Pinpoint's hyperbolic claims be allowed to undermine the Commission's efforts to establish a meaningful standard for the testing requirement. In this regard, Pinpoint's fears that the language of the *Reconsideration Order* could be used to permanently subordinate LMS operations to Part 15 operations are misplaced. Part 15 devices are able to perform a

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<sup>9</sup> See *Report and Order*, 10 FCC Rcd at 4715.

<sup>10</sup> *Id.*, 10 FCC Rcd at 4737. The *Reconsideration Order* confirmed the need for accommodation, adding that "the testing requirement is merely an attempt to achieve the most efficient coexistence possible among the various users of the band." *Reconsideration Order* at ¶ 17.

<sup>11</sup> Petitions for reconsideration must be filed within 30 days after public notice of the order being challenged. See 47 U.S.C. § 405(a).

variety of impressive tasks and support an array of communications services within the congested 902-928 MHz band.<sup>12</sup> Given the ability of Part 15 devices to coexist with other users, it is not immediately clear what would be an "unacceptable" level of interference for Part 15 devices or how to test for it.<sup>13</sup> The language of which Pinpoint complains only makes clear that the prescribed tests must be conducted in mutual recognition of each group's interest in continuing operations -- that is, LMS operations cannot adversely, or "negatively," affect Part 15 devices so as to frustrate their otherwise well-engineered interference avoidance capabilities. More specifically, LMS operators must demonstrate that their operations do not prevent those devices from reasonably performing the functions for which they were designed. Any other approach would render the testing requirement meaningless. Lack of such mutuality in the testing process, moreover, would destroy the balance of interests -- embodied in the testing requirement -- which the Commission so carefully developed in this proceeding.

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<sup>12</sup> For example, Part 15 consumer electronics products such as wireless speaker systems are used by consumers throughout the Nation to enhance their audio systems. The design of these consumer products allows them to perform robustly notwithstanding the presence of many co-channel devices.

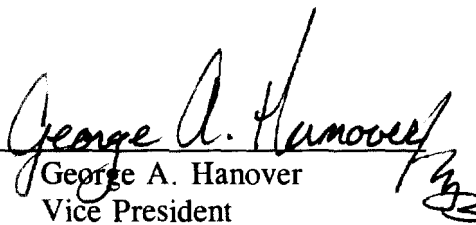
<sup>13</sup> In the *Reconsideration Order*, the Commission declined to develop specific guidelines for LMS testing because of the diversity of LMS systems and Part 15 devices currently in use and the difficulty of establishing a one-size-fits-all test. Instead, the Commission is relying on "LMS and Part 15 operators to work closely together to reach consensus on testing guidelines that satisfy their respective requirements." *Reconsideration Order* at ¶ 16. In this regard, CEMA foresees such guidelines potentially evolving along two lines. One set of guidelines would address the interaction of LMS systems with nationally-dispersed consumer products. The other set would address Part 15 "systems" (e.g., remote meter reading systems) which might be amenable to local testing because the systems ordinarily are operated in defined areas and are controlled by more easily identified system operators.

## II. CONCLUSION

For all of the reasons set forth above, the Commission should deny Pinpoint's petition for reconsideration.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Marc Berejka, certify that a copy of the foregoing "Opposition of the Consumer Electronics Manufacturers Association" was mailed, first class postage prepaid, this 5th day of July, 1996 to the parties listed below.

  
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